

Docket No.: 418268823US1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Aamodt et al.

Application No.: 10/826,010

Confirmation No.: 9213

Filed: April 16, 2004

Art Unit: 2174

For: SYSTEM AND METHOD FOR CREATING
CUSTOMIZABLE NODES IN A NETWORK
DIAGRAM

Examiner: Thanh T. Vu

APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION
UNDER 37 C.F.R. § 1.705(D)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant requests reconsideration of the patent term adjustment indicated in the Issue Notification of November 5, 2008.¹

(1) Applicant is including the fee set forth in 37 C.F.R. § 1.18(e). Please charge any deficiencies or credit any overpayment to our Deposit Account No. 50-0665, under Order No. 418268823US1 from which the undersigned is authorized to draw.

¹ Applicant's representative, Maurice Pirio, discussed issues relating to the filing of this Application with Mr. Kery Fries of the U.S.P.T.O. on November 20, 2008. Mr. Fries advised that applicant may wait until the time of issuance and file an application under 37 C.F.R. § 1.705(d), rather than file an application under 37 C.F.R. § 1.705(b). (See, also, "Decision Holding PTA Request in Abeyance Until After Issue Date," U.S. Patent Application No. 10/274,829, Jan. 30, 2007.)

(2) Statement of Facts

(i) Correct Patent Term Adjustment and Bases for Adjustment

The correct patent term adjustment is 806 days. The PTO's calculated patent term adjustment is 615 days. Applicant is entitled to an additional 191 days of patent term adjustment.

The PTO failed to properly account for the delay under 35 U.S.C. § 154(b)(1)(A), referred to as the "A delay." The A delay is 620 days.

The PTO failed to properly account for the delay under 35 U.S.C. § 154(b)(1)(B), referred to as the "B delay." The B delay is 191 days.

The PTO properly accounted for the overlap under 35 U.S.C. § 154(b)(2)(A) in the A delay and the B delay. The overlap is 0 days.

The PTO properly accounted for the reduction in patent term adjustment under 35 U.S.C. § 154(b)(2)(C). The reduction is 5 days.

The correct patent term adjustment is the sum of the A delay and the B delay minus the overlap and minus the reduction. Thus, the correct patent term adjustment is $620+191-0-5$, which is 806 days.

(ii) Relevant Dates

A Delay		
Filing Date + 14 Months	06/16/2005	↓
First Office Action	02/26/2007	620
Total		620

B Delay		
Filing Date + 3 Years	04/16/2007	↓
Request for Continued Examination	10/24/2007	191
Total		191

Overlap	
Total	0

Reduction		
Office Action	07/24/2007	↓
Reply to Office Action	10/29/2007	5
Total		5

(iii) Terminal Disclaimer

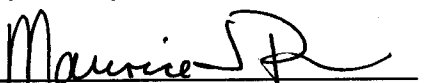
The patent is not subject to a terminal disclaimer.

(iv) Failure to Engage in Reasonable Efforts

Applicant is not contesting the reduction in patent term adjustment of 5 days as accounted for by the PTO that are "deemed" to be a failure to engage in reasonable efforts under 37 C.F.R. § 1.704. There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the application under 37 C.F.R. § 1.704.

Dated: January 8, 2009

Respectfully submitted,

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